

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TASHQUIN DAVIS,

Defendant.

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Cause No. 18 CR 2670 MV

**SUPPLEMENT TO SENTENCING MEMORANDUM
REGARDING CLASSIFICATION AND DESIGNATION**

TASHQUIN DAVIS requests that this Court recommend to the Bureau of Prisons (BOP) that it classify him as low security and that it designate him to FCI Safford. As grounds for this motion, Mr. Davis would show the Court the following:

1. Mr. Davis is a very young offender; he was 18.3 years old at the time of the offense, and will be 17 days shy of his 20th birthday on the date of sentencing. He is relatively tall, but his face appears even young than his age.

2. He will be younger than 98.9% of his peers in prison.¹

3. BOP Program Statement 5100.08, INMATE SECURITY DESIGNATION AND CUSTODY CLASSIFICATION, sets out the method by which BOP classifies inmates.

¹ https://www.bop.gov/about/statistics/statistics_inmate_age.jsp

Counsel's calculation of Mr. Davis' classification is attached to this memorandum. Mr. Davis receives the following points:

- 7 severity of his offense
- 8 age
- 2 lack of a GED
- 1 drug or alcohol abuse

This gives him 18 points. Inmates between 16 and 23 points are classified as medium security.

4. The rate of assaults in low level facilities is far lower than that at medium, which in turn is far lower than that at high security facilities.² According to Jack Donson, a retired BOP employee with numerous assignments within BOP and an expert and consultant in BOP classification, "A 24 year old who going to a penitentiary simply because they got eight points and hit the threshold of 24, that's creating a career criminal. That's causing a young person to have to join a gang, pay extortion, whatever, impress the career criminal crowd in the penitentiary. It's a very bad thing for young people to be in such a high degree of a facility."³ While Mr. Donson refers here to a high security prison, which is yet another magnitude of dangerousness, similar dangers await young inmates at any higher level security classification.

² https://www.bop.gov/about/statistics/statistics_prison_safety.jsp?month=Jan&year=2019

³ <https://www.listennotes.com/podcasts/the-justpod-the-criminal-justice-section-of-v8ce1kmJrP-/> (at 24:13)

5. BOP has the option of applying a “Management Variable” to override the level of security classification at which an inmate’s points would place him. According to Chapter V of P5100.08, “a management variable is required when placement has been made and/or maintained at an institution level inconsistent with the inmate’s scored security level.”

6. Management variables can be applied to increase or decrease a person’s classification. Age as the main driver of a higher security classification is specifically noted as a reason to apply a management variable:

W Lesser Security. There may be security concerns which are not adequately reflected in the classification scheme. In circumstances where an inmate represents a lesser security risk (i.e., detainer removed, positive adjustment, etc.) than the assigned security level, the inmate may be placed in an institution outside normal guidelines. ***For example, where age is largely the contributing factor in the inmate’s placement, this Management Variable will apply.***

7. This Court should recommend to the BOP that it apply Management Variable W in Mr. Davis’ case and that it should classify him as low security.

8. Mr. Davis requests that this Court use the following language in his judgment, as we understand the more specific and justified a designation recommendation, the more likely BOP is to follow it:

The Court recommends that BOP apply Management Variable W in his case and that it classify Mr. Davis to a low security institution, preferably FCI Safford AZ. Mr. Davis’ age is largely the contributing factor in his placement into the

medium security point range. FCI Safford is the closest institution to his home, and pursuant to 18 U.S.C. § 3632(d)(2), Mr. Davis should be placed there. Mr. Davis would benefit from the GED, adult continuing education, and college courses available there through Eastern Arizona College, as well as its drug and alcohol treatment programs. It is also noted that Mr. Davis has no other arrests, much less convictions, in his history.

9. Mr. Davis also incorporates by reference the arguments made at pp. 9-10 of his sentencing memorandum.

Respectfully submitted,

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| A. IDENTIFYING DATA | | | | |
|---|---|---|---|---|
| 1. INSTITUTION CODE | | 2. UNIT | | 3. DATE |
| 4. NAME | | | 5. REGISTER NUMBER | |
| 6. MANAGEMENT VARIABLES | A - NONE B - JUDICIAL RECOMMENDATION C - RELEASE RESIDENCE/PLANNING E - POPULATION MANAGEMENT | G - CIMS I - MED/PSYCH TREATMENT N - PROGRAM PARTICIPATION M - WORK CADRE | S - PSF WAIVED U - LONG TERM DETAINEE V - GREATER SECURITY W - LESSER SECURITY | |
| 7. PUBLIC SAFETY FACTORS | A - NONE B - DISRUPTIVE GROUP (males only) C - GREATEST SEVERITY OFFENSE (males only) F - SEX OFFENDER G - THREAT TO GOVERNMENT OFFICIALS H - DEPORTABLE ALIEN | I - SENTENCE LENGTH (males only) K - VIOLENT BEHAVIOR (females only) L - SERIOUS ESCAPE M - PRISON DISTURBANCE N - JUVENILE VIOLENCE O - SERIOUS TELEPHONE ABUSE | | |
| B. BASE SCORING | | | | |
| 1. TYPE OF DETAINEER | 0 = NONE 1 = LOWEST/LOW MODERATE | 3 = MODERATE 5 = HIGH | 7 = GREATEST | |
| 2. SEVERITY OF CURRENT OFFENSE | 0 = LOWEST 1 = LOW MODERATE | 3 = MODERATE 5 = HIGH | 7 = GREATEST | |
| 3. MONTHS TO RELEASE | | | | |
| 4. CRIMINAL HISTORY SCORE | 0 = 0-1 2 = 2-3 | 4 = 4-6 6 = 7-9 | 8 = 10-12 10 = 13 + | |
| 5. HISTORY OF ESCAPE OR ATTEMPTS | NONE MINOR 0 SERIOUS 0 | >15 YEARS 1 3 (S) | 10-15 YEARS 1 3 (S) | 5-10 YEARS 2 3 (S) |
| 6. History of Violence | NONE MINOR 0 SERIOUS 0 | >15 YEARS 1 2 | 10-15 YEARS 1 4 | 5-10 YEARS 3 6 |
| 7. VOLUNTARY SURRENDER STATUS | 0 = NOT APPLICABLE (-3) = VOLUNTARY SURRENDER | | | |
| 8. AGE | 0 = 55 and over 2 = 36 through 54 | | | 4 = 25 through 35 8 = 24 or less |
| 9. EDUCATION LEVEL | 0 = Verified High School Degree/GED 1 = Enrolled in and making satisfactory progress in GED Program 2 = No verified High School Degree/GED & not participating in GED Program | | | |
| 10. DRUG/ALCOHOL ABUSE | 0 = Never/>5 Years 1 = <5 Years | | | |
| 11. BASE SCORE (ADD \$ B. ITEMS 1 - 10) | | | | |
| C. CUSTODY SCORING | | | | |
| 1. PERCENTAGE OF TIME SERVED | 3 = 0-25% 4 = 26-75% | | | 5 = 76-90% 6 = 91%+ |
| 2. PROGRAM PARTICIPATION | 0 = POOR 1 = AVERAGE 2 = GOOD | | | |
| 3. LIVING SKILLS | 0 = POOR 1 = AVERAGE 2 = GOOD | | | |
| 4. TYPE & NUMBER OF MOST SERIOUS INCIDENT RPT | 0 = ANY GREAT (100) IN PAST 10 YRS 1 = > 1 HIGH (200) IN PAST 2 YRS 2 (A) = 1 HIGH (200) IN PAST 2 YRS 2 (B) = > 1 MOD (300) IN PAST YR | | | 3 (A) = 1 MOD (300) IN PAST YR 3 (B) = >1 LOW MOD (400) IN PAST YR 4 = 1 LOW MOD (400) IN PAST YR 5 = NONE |
| 5. FREQUENCY OF INCIDENT REPORTS (IN PAST YEAR) | 0 = 6+ 1 = 2 THRU 5 | | | 2 = ONE 3 = NONE |
| 6. FAMILY/COMMUNITY TIES | 3 = NONE OR MINIMAL 4 = AVERAGE OR GOOD | | | |
| 7. CUSTODY TOTAL (ADD \$ C. ITEMS 1 - 6) | | | | |
| 8. CUSTODY VARIANCE (FROM APPROPRIATE TABLE ON TABLE ON BP-338, PAGE 2) | | | | |
| 9. SECURITY TOTAL (ADD OR SUBTRACT CUSTODY VARIANCE (\$ C.8) TO BASE SCORE (\$ B.11)) | | | | |
| 10. SCORED SECURITY LEVEL | | | | |
| 11. MANAGEMENT SECURITY LEVEL | | | | |

16-23 = medium